

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

HILDA L. SOLIS, SECRETARY OF LABOR,  
UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

-against-

J.P. MAGUIRE COMPANY, INC. SALARY  
CITY UNIVERSITY OF NEW YORK,

X

Defendant.  
-----

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

11-CV-2904 (KAM) (JMA)

**MATSUMOTO, United States District Judge:**

On June 15, 2011, plaintiff Hilda L. Solis, Secretary of Labor, United States Department of Labor (the "Secretary" or "plaintiff"), commenced this action against J.P. Maguire Company, Inc. Salary Savings Plan (the "Plan" or "defendant") seeking equitable relief for violations of the Employee Retirement Income Security Act of 1974 ("ERISA"). 29 U.S.C. §§ 1001-1191. After defendant was served and failed to appear, plaintiff moved for default judgment on November 11, 2011. Presently before the court is a Report and Recommendation issued by Magistrate Joan M. Azrack on July 24, 2012, recommending that the court enter a judgment (1) that the Plan exists in violation of ERISA; and (2) appointing an Independent Fiduciary to administer the Plan, and, if appropriate, implement its orderly termination. (ECF No. 7, Report and Recommendation dated

7/24/2012 ("R&R"), at 10.)

As explicitly noted at the end of the Report and Recommendation, any objections to the Report and Recommendation were to be filed within 14 days of receipt of the Report and Recommendation. (R&R at 10.) Plaintiff served the Report and Recommendation on defendant by mail on August 9, 2012. (See ECF No. 8, Certificate of Service dated 8/9/12.) The statutory period for filing objections has now expired, and no objections to Magistrate Judge Azrack's Report and Recommendation have been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

Upon a careful review of the Report and Recommendation and the record in this case, and considering that neither party has objected to any of Magistrate Judge Azrack's thorough and well-reasoned recommendations, the court finds no clear error in the Report and Recommendation and hereby affirms and adopts it

as the opinion of the court.

**CONCLUSION**

For the foregoing reasons, the court finds that the Plan exists in violation of ERISA and, as set forth in the accompanying Order Appointing Administrator, will appoint an Independent Fiduciary to administer the Plan and implement its orderly termination if appropriate.

Plaintiff shall serve a copy of this Memorandum and Order upon defendant and file a certificate of service via ECF by September 17, 2012.

**SO ORDERED.**

Dated: September 14, 2012  
Brooklyn, New York

          /s/                      
Kiyo A. Matsumoto  
United States District Judge  
Eastern District of New York